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Circular

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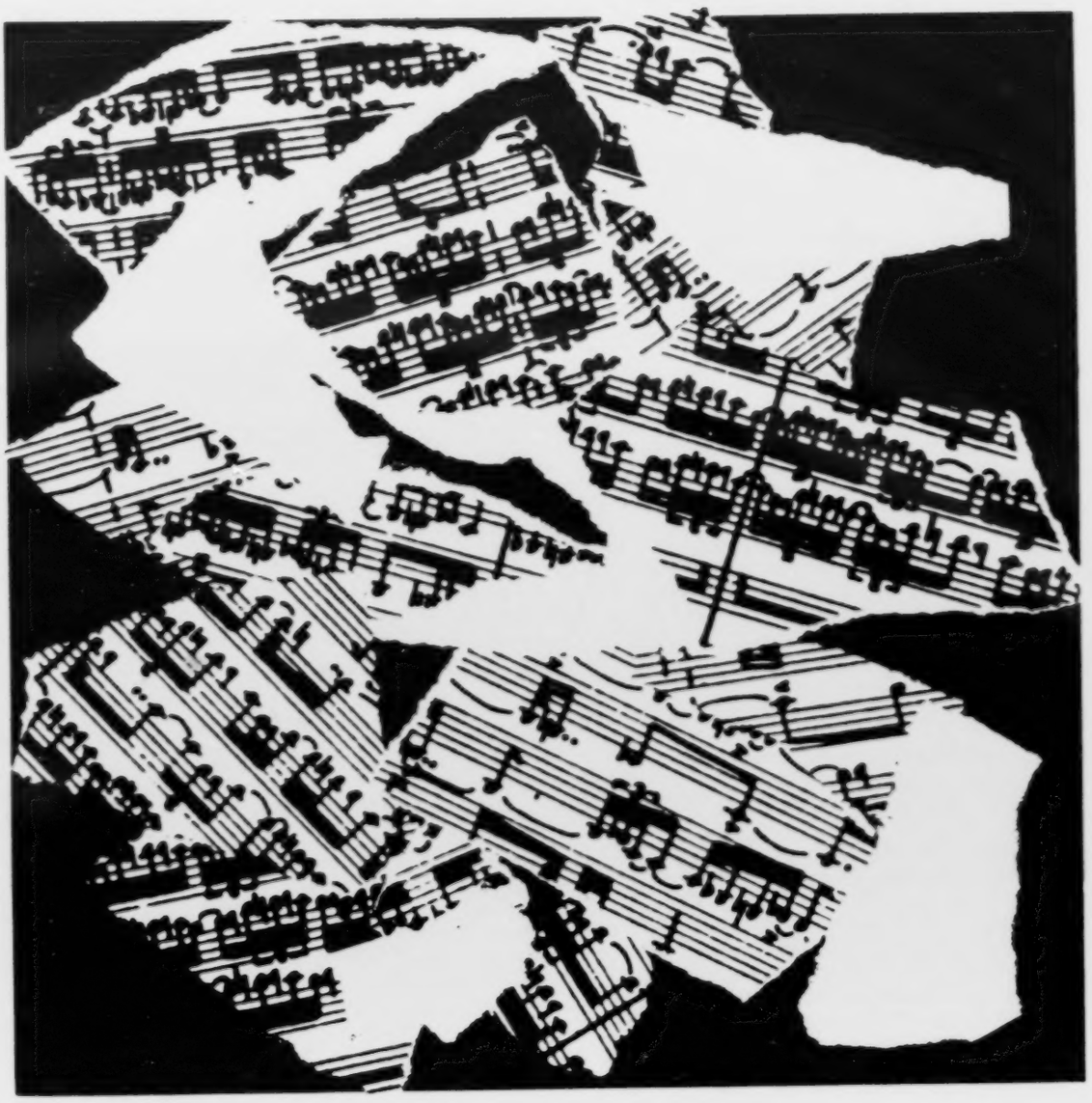
Copyright Registration for Musical Compositions



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Copyright Registration for Musical Compositions

GENERAL INFORMATION

The copyright law of the United States (title 17 of the United States Code) provides for copyright in "musical works, including any accompanying words," which are fixed in some tangible medium of expression. Musical works include both original compositions and original arrangements or other new versions of earlier compositions to which new copyrightable authorship has been added.

How Copyright Is Secured

The Copyright Office registers claims to copyrights and issues certificates of registration, but does not "grant" or "issue" copyrights. Under the present statute, copyright protection begins at the time a work is created in a fixed form such as a writing or recording.

Original musical works may be registered in published or unpublished form. For unpublished works and works published on or after January 1, 1978, registration in the Copyright Office is not a condition of protection; however, there are certain advantages. This circular will assist those who wish to register a claim to copyright in a musical composition.

REGISTRATION PROCEDURES

If you choose to register a claim in your work, send the following material in the same envelope or package to the Register of Copyrights, Copyright Office, Library of Congress, Washington, D.C. 20559:

1. A properly completed application form;

2. A nonreturnable deposit of the work to be registered; and

3. A nonrefundable filing fee of $10 with each application.

Application Form

Form PA is the appropriate form for registration, whether it is accompanied by the deposit of a "copy" (lead sheet or sheet music) or a "phonorecord" (disk or tape). The form should be completed with pen-and-ink (preferably black) or typewriter. Do not use pencil or send a carbon copy. All pertinent information should be supplied on the basic application form. A Continuation Sheet supplied by the Copyright Office should be used only when all necessary information cannot be recorded on the basic application form. No other attachments will be accepted.

Form SR is for registration of "sound recordings." Request Circular 56 for detailed information about the registration of claims in sound recordings. A sound recording is a work that results from the fixation of a series of sounds. The author of a sound recording is the performer, or the record producer, or both. Form SR may be used to register both a musical work and a sound recording fixed in a phonorecord, provided that the same person or organization owns the copyrights in both works. If both kinds of work are being registered, space 2 of Form SR must clearly account for the authorship of both the musical composition (music, or words and music) **and** the sound recording (performance, sound recording, or both).

To request additional information, call or write the Copyright Office:

Information Section, LM-401
Copyright Office
Library of Congress
Washington, D.C. 20559
(202) 479-0700

For forms or circulars, call the Forms Hotline, (202) 707-9100, and leave a recorded request.

How to Complete Form PA

Instructions for completing each space of the application accompany the form. Nevertheless, registration is often delayed because of mistakes in filling out the form. The following points should be noted in particular:

Space 1: Give the title of the work exactly as it appears on the copy or phonorecord.

- A group of **unpublished** works registered as a collection must be given a collection title. The individual titles may be given on a Continuation Sheet.

- For registration of an entire collection of **published** works, give the title of the collection.

- For registration of only some of the individual works in a published collection, give the titles of the individual works, followed by "Contained in (title of collection)."

See the section in this circular under "Collections of Music" for further information.

Space 2: Answer carefully the question "Was this author's contribution to the work a work made for hire?" Check "yes" **only** if that contribution was either (1) prepared by an employee within the scope of his or her employment or (2) specially ordered for a certain use, with an express written agreement signed by both parties that the work shall be considered a work made for hire. Such certain uses include contributions to a collective work, parts of a motion picture or other audiovisual work, or supplementary works such as new musical arrangements. If the contribution was made for hire, give the name of the **employer**, not the person who actually did the writing, in the "Name of Author" box.

Complete the "Nature of Authorship" space to specify what the author created as written or recorded in the copy or phonorecord that accompanies the application. Examples are: "music," "words," "arrangement." Do **not** include elements not present in that copy or phonorecord. Do **not** include elements that are not protected by copyright such as an idea, concept, name, or title.

Space 3: Creation. The year of creation is the year in which the version of the work to be registered was ***first*** fixed in writing or recorded in any other tangible form. When a work is written or recorded over a period of time, or constitutes a new version of an earlier work, give the completion date of the final work or new version. **This year date must always be given.**

Publication. The definition of "publication" is discussed later in this circular (page 5). If publication has not taken place, **leave this box blank.** If the version of the work being registered has been published, give the month, day, year, and nation where copies or phonorecords of this version were first published.

Space 4: The **name** and **address** of the **copyright claimant must be given.** The copyright claimant is either the author or a person or organization to whom the author has transferred **all** of the rights in the United States copyright. When the claimant named is **not** the author, a brief transfer statement is required at space 4 to show how the claimant acquired the copyright. Examples of generally acceptable statements include: "by written agreement"; "assignment"; "written contract"; "by will." Do not attach copies of documents of transfer of copyright to the application. If you wish information on how to record transfers or other documents pertaining to a copyright, write to the Copyright Office for Circular 12.

When the name of the claimant is not the name of the author given at space 2, but the two names identify one person, the relationship between the names should be explained at space 4. Examples are: "Doe Publishing Company, solely owned by John Doe"; or "John Doe doing business as Doe Publishing Company."

Space 5: Complete this space only if the work (or portion of the work) being registered was previously registered and a certificate of registration was issued. If this is the case, answer "yes" to the first question and check the appropriate box to show why another registration is sought. Also, give the requested information about the previous registration.

If no previous registration was completed, answer the first question "no" and leave the rest of space 5 blank.

Space 6: Complete this space **only** if the work being registered contains a **substantial** amount of material:

(1) that was previously published; or

(2) that was previously registered in the United States Copyright Office; or

(3) that is in the public domain.

Leave this space blank if the work does not contain a substantial amount of any of these three kinds of material.

Space 6a: Complete this space and space 6b for derivative works. In space 6a briefly describe the preexisting material that has been recast, transformed, or adapted.

Space 6b: For derivative works, complete this space by stating briefly but clearly **all** of the added or revised copyrightable material which forms the basis of the present registration. Examples: "Arrangement for piano and orchestra" or "new lyric."

For compilations, give a brief, general statement describing both the material that has been compiled **and** the compilation itself. Example: "Compilation of selected 19th century military songs."

Space 2 must include information about the authorship of this new material.

Space 8: The application must bear an original signature and be dated. Stamped **and photocopied** signatures are not acceptable. For a published work, the application must be certified on or after the date of first publication. If the certification date is earlier than the date of publication given at space 3, the application cannot be accepted.

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DEPOSIT REQUIREMENTS

The application must be accompanied by a deposit of the work to be registered. The deposit requirement varies according to the type of work for which registration is sought. Deposits cannot be returned.

Unpublished Works

Deposit one complete copy (lead sheet or sheet music) or phonorecord (disk or tape). "Complete" means including everything that is to be covered by the registration. Separate applications for several works may be accompanied by one phonorecord containing all of the works. A copyright registration generally covers only the material that is deposited for registration although the copyright law automatically gives copyright protection to all copyrightable authorship that is fixed in a copy or phonorecord.

Copies should be legible, and both words and music on a phonorecord should be clear and audible. All deposits should bear the title of the work.

Copies of a group of works registered as a collection should be assembled in orderly form and fastened together or placed in a folder. The title of a collection should appear on copies and phonorecords.

Published Works

If the work was first published in the United States on or after January 1, 1978, deposit two complete copies of the best edition. If the work was published only on phonorecords, deposit one complete phonorecord of the best edition. In the case of a work published by rental, lease, or lending, deposit one complete copy. Where rental is of a full score and parts, or a conductor's score and parts, the full score or conductor's score is a "complete" copy.

If the work is a contribution to a collective work, and published on or after January 1, 1978, deposit one complete copy or phonorecord of the best edition of the collective work.

If the work was first published in the United States before January 1, 1978, deposit two complete copies of the best edition of the work **as first published.**

If the work is a contribution to a collective work, and published prior to January 1, 1978, deposit one complete copy of the collective work as first published.

If the work was first published outside the United States, whenever published, deposit one complete copy or phonorecord of the work as first published.

For separate registration of a musical composition published **only** in a motion picture soundtrack, deposit: (1) a transcription of the entire work, or a reproduction of the entire work on a phonorecord; and (2) photographs or other reproductions from the motion picture of the title of the motion picture, the soundtrack credits, and the copyright notice for the soundtrack if any. Deposit of the entire motion picture is not required.

"Best Edition" Requirements

The copyright law (title 17, United States Code) requires that copies or phonorecords deposited in the Copyright Office be of the "best edition" of the work. The law states that "The 'best edition' of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes." (For works first published only in a country other than the United States, the law requires the deposit of the best edition as **first** published.)

When two or more editions of the same version of a work have been published, the one of the highest quality is generally considered to be the best edition. In judging quality, the Library of Congress will adhere to the criteria set forth below in all but exceptional circumstances.

"BEST EDITION" OF PUBLISHED COPYRIGHTED MUSICAL COMPOSITIONS:

I. Printed Copies (rather than phonorecords)

A. *Fullness of Score*

1. *Vocal music:*

a. With orchestral accompaniment—

i. Full score and parts, if any, rather than conductor's score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to full score only.)

ii. Conductor's score and parts, if any, rather than condensed score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to conductor's score only.)

b. Unaccompanied: Open score (each part on separate staff) rather than closed score (all parts condensed to two staves).

2. *Instrumental music:*

a. Full score and parts, if any, rather than conductor's score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to full score only.)

b. Conductor's score and parts, if any, rather than condensed score and parts, if any. (In cases of compositions published only by rental, lease, or lending, this requirement is reduced to conductor's score only.)

B. *Printing and Paper:*
1. Archival-quality rather than less-permanent paper.

C. *Binding and Packaging:*
1. Special limited editions rather than trade editions.
2. Bound rather than unbound.
3. If editions have different binding, apply the criteria in I.A.2-I.A.12, in Circular 7b, "Best Edition."
4. With protective folders rather than without.

II. Phonorecords
A. Compact digital disk rather than a vinyl disk.
B. Vinyl disk rather than tape.
C. With special enclosures rather than without.
D. Open-reel rather than cartridge.
E. Cartridge rather than cassette.
F. Quadraphonic rather than stereophonic.
G. True stereophonic rather than monaural.
H. Monaural rather than electronically rechanneled stereo.

PUBLICATION

The present Copyright Act defines publication as follows:

"Publication is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication."

"To the public" generally means to persons under no explicit or implicit restrictions with respect to disclosure. The following acts do **not** constitute publication: performance of the work, preparation of copies or phonorecords, or sending the work to the Copyright Office.

The above definition of publication applies **only** to works governed by the copyright law that took effect January 1, 1978. Prior to 1978, musical compositions were considered published when copies (not phonorecords) were sold, placed on sale, or publicly distributed under the authority of the copyright owner. Works first published before 1978 can be registered only if the published copies bore a copyright notice in the prescribed form and location.

Phonorecords were not considered "copies" of musical compositions under the law in effect through December 31, 1977. The sale or public distribution of phonorecords, therefore, did **not** publish the musical composition that was embodied in them. If, however, phonorecords distributed prior to 1978 were still being sold or were publicly available on January 1, 1978, the underlying musical composition was considered published as of January 1, 1978. For purposes of registration, the date of publication for a musical work embodied in such a phonorecord is January 1, 1978. Where phonorecords were no longer available on January 1, 1978, but were reissued later, the date of first publication is the reissue date.

FEE

A fee prescribed by the copyright law is required for each work submitted for registration. The fee, currently $10, is nonrefundable whether or not copyright registration is ultimately made. A check or money order should be made payable to the **Register of Copyrights.** Do not send cash.

COLLECTIONS OF MUSIC

Unpublished Collections

To register two or more unpublished musical compositions with one application and fee, **all** of the following conditions **must** be met.

1. The selections must be assembled in an orderly form.

2. The combined selections must bear a single title identifying the collection as a whole.

3. The copyright claimant or claimants must be the same for each selection.

4. All of the selections must be by the same author; or, if they are by different authors, at least one author must have contributed to each selection.

Note that while the authorship may be different for different selections (provided that at least one author contributed to all of them), the ownership must be exactly the same for each selection. Space 2 of the application should name all of the individuals who contributed authorship to the musical works in the collection. If the authors are members of a performing group, you may state this after each name.

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Naming only a performing group as author does not clearly identify the authors.

When a group of unpublished works is registered as a collection, only the collection title will appear in the catalogs and indexes of the Copyright Office. Individual titles will appear in Copyright Office records only if each work is registered separately, or if an application for supplementary registration is submitted to specify the individual titles in a collection. An application for supplementary registration may not be submitted until a certificate of registration has been issued for the collection. For more information on supplementary registration, please request Circular 8 and application Form CA.

Published Collections

A published collection of musical compositions may be registered with one application and fee if all of the compositions are owned by the same copyright claimant. The entire collection may be registered under the collection title.

NOTICE OF COPYRIGHT

For works first published on and after March 1, 1989, use of the copyright notice is optional, though highly recommended. Before March 1, 1989, the use of the notice was mandatory on all published works, and any work first published before that date must bear a notice or risk loss of copyright protection. (The Copyright Office does not take a position on whether works first published with notice before March 1, 1989, and reprinted and distributed on and after March 1, 1989, must bear the copyright notice.)

Use of the notice is recommended because it informs the public that the work is protected by copyright, identifies the copyright owner, and shows the year of first publication. Furthermore, in the event that a work is infringed, if the work carries a proper notice, the court will not allow a defendant to claim "innocent infringement"—that is, that he or she did not realize that the work is protected. (A successful innocent infringement claim may result in a reduction in damages that the copyright owner would otherwise receive.)

The use of the copyright notice is the responsibility of the copyright owner and does not require advance permission from, or registration with, the Copyright Office.

Form of Notice for Visually Perceptible Copies

The notice for visually perceptible copies should contain all of the following three elements:

1. ***The symbol*** © (the letter C in a circle), or the word "Copyright," or the abbreviation "Copr."; and

2. ***The year of first publication*** of the work. In the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient.

3. ***The name of the owner of copyright*** in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

Example: © 1989 John Doe

The "C in a circle" notice is used only on "visually perceptible copies." The "C in a circle" notice is not used to indicate protection of the underlying musical, dramatic, or literary work that is recorded on a phonorecord.

The notice should be affixed to copies of the work in such a manner and location as to "give reasonable notice of the claim to copyright." The three elements of the notice should ordinarily appear together on the copies. The Copyright Office has issued regulations concerning the form and position of the copyright notice in the *Code of Federal Regulations* (37 C.F.R. Part 201). For more information, request Circular 3 from the Publications Section, LM-455, Copyright Office, Library of Congress, Washington, D.C. 20559.

MANDATORY DEPOSIT FOR WORKS PUBLISHED IN THE UNITED STATES WITH NOTICE OF COPYRIGHT

Although a copyright registration is not required, the Copyright Act establishes a mandatory deposit requirement for works published in the United States. In general, the owner of copyright, or the owner of the exclusive right of publication in the work, has a legal obligation to deposit in the Copyright Office, within 3 months of publication in the United States, 2 copies (or in the case of sound recordings, 2 phonorecords) for the use of the Library of Congress. Failure to make the deposit can result in fines and other penalties, but does not affect copyright protection.

Certain categories of works are ***exempt entirely*** from the mandatory deposit requirements, and the obligation is reduced for certain other categories. For further information, request Circular 7d.

EFFECTIVE DATE OF REGISTRATION

A copyright registration is effective on the date the Copyright Office receives all of the required elements in acceptable form, regardless of how long it then takes to process the application and mail the certificate of registration. The time the Copyright Office requires to process an application varies, depending on the amount of material the Office is receiving and the personnel available. It must also be kept in mind that it may take several days for mailed material to reach the Copyright Office and for the certificate of registration to reach the recipient.

If you apply for copyright registration, you will not receive an acknowledgement that your application has been received (the Office receives more than 600,000 applications annually), but you can expect:

- A letter or telephone call from a copyright examiner if further information is needed.
- A certificate of registration to indicate the work has been registered, or if the application cannot be accepted, a letter explaining why it has been rejected.

You may not receive either of these until 120 days have passed.

If you want to know when the Copyright Office receives your material, send it by registered or certified mail and request a return receipt.

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